

REMARKS

This amendment responds to the Office Action mailed February 9, 2004.

In paragraph 1 of the Office Action, the Examiner objects to Fig. 1 because it fails to show an “automobile” and a “portable terminal,” as recited in claim 1 and described in the specification. Accordingly, Applicant has added an automobile 100 and a portable terminal 110 to Fig. 1. In addition, Applicant has amended two paragraphs on page 6 to include the new reference numerals for these elements.

In paragraph 3 of the Office Action, the Examiner rejects claims 5-6 under 35 U.S.C. § 112 as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. In particular, claim 5 recites the limitation “the data delivery system as set forth in claim 5,” which has insufficient antecedent basis. Accordingly, Applicant has amended claim 5 to depend from claim 1.

In paragraph 4 of the Office Action, the Examiner rejects claims 1-18 under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 6,526,335 to Treyz et al. (see Treyz). The Examiner’s rejection on this ground is respectfully traversed.

Among the limitations of independent claims 1, 7, 10, 13, and 16 which are neither disclosed nor suggested in the prior art of record is, e.g., a “data delivery unit . . . comprising a memory storing data therein which . . . transmits the stored data to said portable terminal through said communication device.” To overcome the latency of delivering data through the Internet, the

data delivery system uses this data delivery unit to transmit the requested information from the memory of the data delivery unit to the portable terminal. In addition, a second claim limitation which is neither disclosed or suggested in the prior art of record is a “drive-through facility which indicates a location of a communication device, wherein said device communicates with said portable terminal when said automobile is proximate to said location.” The claimed data delivery system, including the advantages obtained thereby, are neither disclosed nor suggested in the prior art of record.

Treyz is directed to an automobile personal computer system. Such a system can be used in conjunction with the present invention to download data from the present invention. Treyz discloses that the automobile personal computer receives audio content from a terrestrial broadcast source or downloads Internet data from a satellite link (see Figs. 114 and 119). Treyz also teaches that the automobile personal computer can download software or other materials at, for example, a gas station or merchant using a local wireless link (see step 694 in Fig. 52). Treyz, however, fails to teach or suggest the use of a memory in a data delivery unit at such merchant, the storage of data transmitted to the portable terminal in such memory, indicating the location of a communicating device, and communicating when the automobile is proximate to the indicated location. In fact, Treyz does not provide any further disclosure of the equipment used at the merchant's facility for providing data to the automobile personal computer. In the absence of any disclosure or suggestion of these features of the invention, these claims are believed to be in condition for allowance.

Claims 2-6, 8-9, 11-12, 14-15, 17-18, and new claims 19-26 depend from claims 1, 7, 10, 13, and 16, and include all the limitations found therein, and therefore are allowable for the same reasons. In addition, these

claims recited additional limitations which, in combination with the limitations of these claims, are not disclosed or suggested in the art of record.

Independent claims 1 and 13 have been amended to clarify that the portable terminal and the automobile are not elements of the claimed apparatus. These amendments broaden the scope of these claims, since the terminal and automobile are not required to be part of the claimed apparatus. Independent claims 7, 10, and 16 have been similarly amended to clarify the purpose of the method in the preamble of the claim, but these amendments do not affect the scope of these claims.

Independent claims 1, 7, 10, 13, and 16 have been amended to expressly recite that communications occur when the automobile is proximate to the location of the claimed apparatus, instead of when the automobile parks in the facility. This amendment broadens these claims, since the communications may occur while the automobile is in motion.

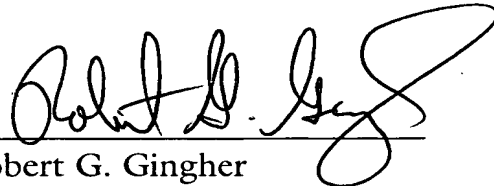
Claim 1 has been amended to recite that the data delivery unit comprises a memory, and that the memory stores the data that is requested and delivered to the portable terminal. Claim 4 has been amended to be consistent with this amendment to claim 1. Similarly, claims 7, 10, 13, and 16 have been amended to clarify that such memory stored data is delivered to the portable terminal.

New claims 19-26 have been added to more fully define the invention.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: April 15, 2004

Respectfully submitted,

By 

Robert G. Gingher

Registration No.: 45,755

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

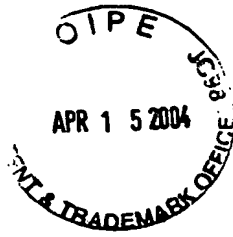
1177 Avenue of the Americas - 41st Floor
New York, New York 10036-2714

(212) 835-1400

Attorney for Applicant

RG/mgs/ll2
Attachments

Application No.: 09/841,198



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ANNOTATED SHEET SHOWING CHANGES



1/2

FIG.1

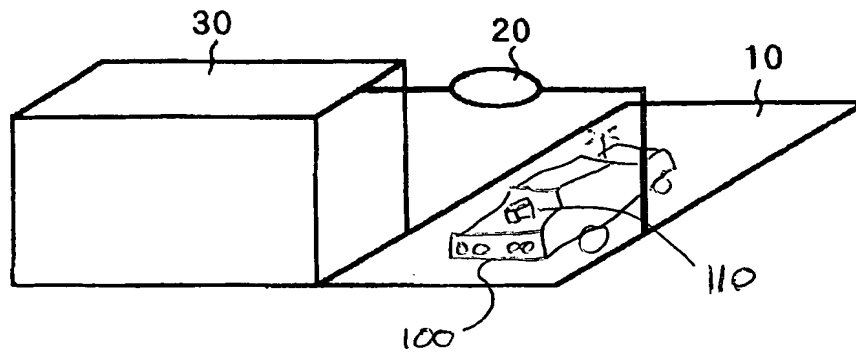


FIG.2

